



PLANNING COMMISSION AGENDA REPORT

III.6

MEETING DATE: NOVEMBER 27, 2006

ITEM NUMBER:

SUBJECT: REVIEW OF ZONING ADMINISTRATOR DECISION FOR ZA-06-43
2010 NORTH CAPELLA COURT

DATE: NOVEMBER 16, 2006

FOR FURTHER INFORMATION CONTACT: HANH NGUYEN, ASSISTANT PLANNER (714) 754-5640

PROJECT DESCRIPTION

Request for review of Zoning Administrator's decision for an administrative adjustment to allow a first-story addition to encroach six feet into the rear setback, a minor design review for a second-story addition, and minor modifications for front yard encroachments.

APPLICANT

The review was requested by Council Member Katrina Foley. The project applicants are Adam and Susanne Walburger, property owners.

RECOMMENDATION

Uphold, reverse, or modify the Zoning Administrator's decision, by adoption of Planning Commission resolution.

HANH NGUYEN
Assistant Planner

R. MICHAEL ROBINSON, AICP
Assistant Development Svs. Director

PLANNING APPLICATION SUMMARY

Location: 2010 North Capella Court Application: ZA-06-43

Request: Administrative Adjustment for first-story addition to encroach 6 feet into rear setback, minor design review for 2nd-story addition, and minor modifications for front yard encroachments.

SUBJECT PROPERTY:

Zone: R1 Single-Family Residential

General Plan: Low Density Residential

Lot Dimensions: Irregular

Lot Area: 7,430 sq. ft.

Existing Development: A two-story, single-family residence with an attached, 2-car garage.

SURROUNDING PROPERTY:

North: R1 Single-Family Residence

South: R1 Single-Family Residence

East: R1 Single-Family Residence

West: R1 Single-Family Residence

DEVELOPMENT STANDARD COMPARISON

Development Standard Code Requirement Proposed/Provided

Lot Size:		
Lot Width	50 ft.	56 ft.
Lot Area	6,000 sq. ft.	7,430 sq. ft.
Density:		
Zone	1 du:6,000 sq. ft.	1 du: 7,430 sq. ft.
General Plan	1 du:5,445 sq. ft.	
Building Coverage:		
Building – residence		12% (900 sq. ft.)
Building – residence addition		14% (965 sq. ft.)
Building – garage		7%% (550 sq. ft.)
Driveway		7% (500 sq. ft.)
TOTAL		39% (2,915 sq. ft.)
Open Space:	40%	61% (4,515 sq. ft.)
Ratio of 2 nd floor to 1 st floor ¹ :	80% x 2,415 sq. ft. 1 st floor = 1,932 sq. ft. ²	82% (1,992 sq. ft.)
Building Height:	2 stories/27 ft.	2 stories/25 ft.
Setback		
Front	20 ft.	18 ft. ³
Side (left/right)	5 ft./5 ft.	5 ft./5 ft.
Side (left/right) – 2 nd floor ¹	6 ft./5 ft.	5 ft./13 ft.
Rear	10 ft.	10 ft. ²
Rear	20 ft.	20 ft.
Rear Yard Coverage	594 sq. ft.	11% (250 sq. ft.)
Parking:		
Covered	2	2
Open	2	2
TOTAL	4	4

¹ Residential Design Guidelines

² Administrative Adjustment for 6-foot rear setback; denial affects 2nd-to-1st floor ratio

³ Minor Modification

CEQA Status Exempt Class 1

Final Action Planning Commission

BACKGROUND

On October 19, 2006, the Zoning Administrator approved a minor design review for a 974 square-foot, second-story addition and minor modifications for a one-foot first-story and a two-foot second-story encroachment into the front yard setback. The administrative adjustment for the first-floor addition to encroach six feet into the required 10-foot rear yard setback was denied based on lack of findings and neighbor concerns that approval of the rear yard encroachment would set a precedent for the neighborhood and the proximity of the proposed addition to the rear property line would have noise and privacy impacts.

On October 26, 2006, Council Member Katrina Foley called up the Zoning Administrator's decision for Planning Commission review.

ANALYSIS

The first-story addition and patio cover were proposed to encroach six feet into the required 10-foot rear yard setback, resulting in a four-foot rear setback. The applicant states that the property's irregularly shaped lot with a curve at the front creates a special circumstance that is not applicable to other properties in the neighborhood, making it difficult to use the property as intended by the applicant. The Zoning Administrator determined that special circumstances do not exist for the property because the property's lot size (7,430 square feet) and lot width (56 feet) exceeds minimum Code requirements and that denying the encroachment will not deprive the property owner from use and enjoyment of his property. Also, the curved lot line at the front of the home does not directly impact the rear yard.

The applicant also states the proposed rear yard encroachment would not negatively impact the adjoining neighbors because the windows will not be higher than the fence line and that it would allow activities to be conducted indoors; thereby minimizing noise and privacy impacts to the adjoining neighbors. It is staff's opinion that the addition would allow the occupant to use the space at any time whereas outdoor uses of the yard would be limited to weather conditions; therefore noise and privacy impacts are potentially greater with the proposed addition.

In addition to the above concerns, five communications in opposition to the request were received. Three of these communications were from the adjacent property owners to the west, northwest, and north of the subject property. These are the neighbors most directly impacted by the requested encroachment.

Should the Planning Commission uphold the denial of the administrative adjustment for the proposed six-foot rear yard encroachment, the applicant requests that the Planning Commission consider approving a minor modification for a two-foot encroachment, resulting in an eight-foot rear setback.

Denial of the administrative adjustment results in an 82% second-to-first floor ratio, which exceeds the maximum 80% ratio recommended by the Residential Design Guidelines; therefore, a minor design review was required. The proposed second-floor

satisfies the intent of the Residential Design Guidelines with staff's condition requiring installation of siding material on all sides of the second story, as well as on the garage and the one-story addition at the right side of the residence. This siding is to match the siding material and color on the front elevation, which will minimize the building mass and provide additional interest. Privacy of the adjoining neighbors would not be impacted because of the locations and setbacks of the second-story windows.

Minor modifications were approved for the garage to encroach one foot, and to allow the second-floor addition (including balcony) to encroach two feet, into the required 20-foot front setback because of the property's curve and a minimum 19-foot deep driveway would still be provided. Furthermore, the balcony is an architectural feature, enhancing the visual appearance of the front elevation.

GENERAL PLAN CONFORMITY

The General Plan designation for the property is Low Density Residential, which allows a maximum density of one dwelling unit per 5,445 square feet of lot area; however, the property is zoned R1, which allows a maximum density of one dwelling unit per lot, on minimum 6,000 square-foot lot area. The site contains one dwelling unit on a 7,430 square-foot lot, consistent with both the General Plan and Zoning designations.

ENVIRONMENTAL DETERMINATION

The project is exempt from the provisions of the California Environmental Quality Act under Section 15301, for Existing Facilities.

ALTERNATIVES

The Commission has the following alternatives:

1. Uphold Zoning Administrator's decision, denying the administrative adjustment but approve the minor design review and minor modifications, which would allow the applicant to make the corrections recommended by Planning staff and obtain a building permit;
2. Overturn Zoning Administrator's decision and deny the project, which would prohibit the applicant from obtaining a building permit;
3. Approve the project with modifications to allow a minor modification for a two-foot rear yard encroachment, resulting in an eight-foot rear setback. If this alternative is approved, condition of approval number one should be amended to reflect the eight-foot rear setback; or
4. Approve the project as proposed. If this alternative is approved, condition of approval number one should be deleted.

CONCLUSION

The Zoning Administrator determined that special circumstances applicable to the property do not exist to allow a six-foot rear yard encroachment; however, the second-story addition, with conditions, and the minor modifications for the front yard encroachments, comply with Code.

Attachments: Draft Planning Commission Resolution
Exhibit "A" Draft Findings
Exhibit "B" Draft Conditions of Approval
Zoning Administrator Letter
Review Form
Neighbor Letters
Photographs of the site
Location Map
Plans

cc: Deputy City Manager - Dev. Svs. Director
Deputy City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

Adam and Susanne Walburger
2010 North Capella Court
Costa Mesa, CA 92626

Russell and Sandrine Gann
2005 Balearic Drive
Costa Mesa, CA 92626

Richard J. Johnson
2009 Balearic Drive
Costa Mesa, CA 92626

Peggy Gilkerson
2013 Balearic Drive
Costa Mesa, CA 92626

Kaori Miyazaki
2008 North Capella Court
Costa Mesa, CA 92626

William McCarty and Cathleen Boyd
2012 North Capella Court
Costa Mesa, CA 92626

File Name: 112706ZA0643Review	Date: 111406	Time: 3:00 p.m.
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RESOLUTION NO. PC-06-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA UPHOLDING THE ZONING ADMINISTRATOR'S DECISION FOR ZONING APPLICATION ZA-06-43, DENYING THE ADMINISTRATIVE ADJUSTMENT AND APPROVING THE MINOR DESIGN REVIEW AND MINOR MODIFICATIONS FOR A FIRST- AND SECOND-STORY ADDITION AT 2010 NORTH CAPELLA COURT

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Adam and Susanne Walburger, owner of the real property located at 2010 North Capella Court, requesting approval for an administrative adjustment to allow a first-floor addition to encroach six feet into the required 10-foot rear setback, with a minor design review for a second-story addition to exceed the recommended 80% second-to-first floor ratio (82% proposed) and minor modifications for a one-foot first-floor and a two-foot second-floor front yard encroachment; and

WHEREAS, on October 19, 2006, the Zoning Administrator issued a letter approving the minor design review and minor modifications, but denying the administrative adjustment; and

WHEREAS, on October 26, 2006, Council Member Katrina Foley called up the Zoning Administrator's decision for Planning Commission review; and

WHEREAS, the Planning Commission conducted a duly noticed review of the Zoning Administrator's decision on November 27, 2006.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **UPHOLDS** the Zoning Administrator's decision with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this resolution is expressly predicated upon the activity as described in the staff report for Zoning Application ZA-06-43 at 2010 North Capella Court. Any approval granted by this resolution shall be subject to review, modification, or revocation if there is a material change that occurs in the operation.

PASSED AND ADOPTED this 27th day of November, 2006.

Bill Perkins, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, R. Michael Robinson, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on November 27, 2006, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS

- A. The information presented does not substantially comply with Section 13-29(g)(1) of the Costa Mesa Municipal Code in that special circumstances applicable to the property do not exist to justify granting of the administrative adjustment for a six-foot rear yard setback. Strict application of the zoning ordinance would not deprive the property owner of privileges enjoyed by owners of other property in the vicinity under identical zoning classification. Specifically, although the property's configuration is irregular, the lot width and size exceeds the minimum Code requirements. Furthermore, there are alternative solutions for the addition that will not require deviations from Code. Granting the deviation would constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.
- B. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(14) in that the minor design review meets the purpose and intent of the Residential Design Guidelines, which are intended to promote design excellence in new residential construction, with consideration being given to compatibility with the established residential community. This minor design review includes site planning, preservation of overall open space, landscaping, appearance, mass and scale of structures, location of windows, varied roof forms and roof plane breaks, and any other applicable design features. Specifically, the proposed second-story side setbacks are compatible with other two-story residences in the general vicinity. Furthermore, building mass is minimized and visual interest enhanced with staff's condition requiring the installation of siding material around all sides of the second story, on the garage, and also on the first-floor addition to the right side of the residence. Privacy of the adjoining neighbors would not be impacted because of the locations and setbacks of the second-story windows.
- C. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(6) in that a 19-foot building front setback and an 18-foot second-floor balcony front setback would not be detrimental to the health, safety, and general welfare of persons residing or working within the immediate vicinity of the project or to properties and improvements within the neighborhood. Specifically, because of the front property line's curvature, only a small portion of the building will encroach into the setback area and the second-floor balcony encroachment would enhance the visual appearance of the front elevation. The proposed improvement is compatible with and enhances the architecture and design of the existing and anticipated development in the vicinity.
- D. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:
1. The proposed development and use is compatible and harmonious with uses both on-site as well as those on surrounding properties.
 2. Safety and compatibility of the design of the buildings, parking areas,

- landscaping, and other site features including functional aspects of the site development have been considered.
3. The proposed development is consistent with both the General Plan and the Zoning designations because the proposed construction will not increase the number of dwelling unit on the property.
 4. The proposed development satisfies the City's Residential Design Guidelines.
 5. The zoning application is for a project-specific case and does not establish a precedent for future development.
- E. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt under Section 15301, Existing Facilities, of CEQA.
- F. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL**

- Plng.
1. Plans submitted for plan check shall show the required ten-foot rear setback.
 2. Siding or other material shall be installed on all sides of the second story and on the garage face and portion of the front, one-story addition, to provide additional visual interest, under the direction of Planning Staff.
 3. No modification(s) of the approved building elevations including, but not limited to, changes that increase the building height, removal of building articulation, or a change of the finish material(s), shall be made during construction without prior Planning Division written approval. Failure to obtain prior Planning Division approval of the modification could result in the requirement of the applicant to (re)process the modification through a discretionary review process such as a minor design review or a variance, or in the requirement to modify the construction to reflect the approved plans.
 4. Any future second-floor windows shall be reviewed and approved by the Planning Division prior to installation. The windows shall be designed and placed to minimize direct lines-of-sight into windows on adjacent neighboring properties and to minimize visibility into abutting residential side and rear yards.
 5. Demolition permits for existing structure shall be obtained and all work and inspections completed prior to final building inspections. Applicant is notified that written notice to the Air Quality Management District may be required ten (10) days prior to demolition.
 6. All new and existing construction shall be architecturally compatible with regard to building material, style, colors, etc. with the existing structure. Plans submitted for plan check shall indicate how this will be accomplished.
 7. All construction-related activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and 8 a.m. to 6 p.m. Saturday. Construction is prohibited on Sundays and federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.
 8. The conditions of approval, Code provisions, and special district requirements of Zoning Application ZA-06-43 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
 9. The applicant shall contact the Planning Division to arrange for Planning inspection of the site prior to the release of occupancy. This inspection is to confirm that the conditions of approval and Code requirements have been satisfied.
- Eng.
10. Maintain the public right-of-way in a "wet-down" condition to prevent excessive dust and remove any spillage from the public right-of-way by sweeping or sprinkling.



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

October 19, 2006

Adam Walburger
2010 North Capella Court
Costa Mesa, CA 92626

**RE: ZONING APPLICATION ZA-05-43
ADMINISTRATIVE ADJUSTMENT FOR 6-FOOT REAR SETBACK
MINOR DESIGN REVIEW FOR SECOND-STORY ADDITION
MINOR MODIFICATIONS FOR 18-FOOT & 19-FOOT FRONT SETBACK
2010 NORTH CAPELLA COURT, COSTA MESA**

Dear Mr. Walburger:

Staff review of the zoning application for the above-referenced project has been completed. The minor design review and minor modifications have been approved, but the administrative adjustment for the proposed six-foot rear setback has been denied, based on the project description and findings, and subject to the conditions of approval (attached). The decision will become final at 5 p.m. on October 26, 2006, unless appealed by an affected party (including filing of the necessary application and payment of the appropriate fee) or is called up for review by a member of the Planning Commission or City Council.

If you have any questions regarding this letter, please feel free to contact the project planner, Hanh Nguyen, at (714) 754-5640.

Sincerely,


R. MICHAEL ROBINSON, AICP
Zoning Administrator

Attachments: Project description
Findings
Conditions of approval
Approved conceptual plans

cc: Gary Wong, Engineering
Fire Protection Analyst
Building Division

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Russell and Sandrine Gann
2005 Balearic Drive
Costa Mesa, CA 92626

Richard J. Johnson
2009 Balearic Drive
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2008 North Capella Court
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PROJECT DESCRIPTION

- The applicant proposes a first and second floor addition to an existing two-story, single-family residence. The first-floor addition consists of a new garage, a new kitchen and family room, a patio cover in the rear yard, and an expansion of a bedroom/office. The second-floor addition consists of two new bedrooms.
- The requested administrative adjustment to allow the first-floor addition and patio cover to encroach four feet into the required ten-foot rear setback is denied. Although the property is irregular in shape, special circumstances do not exist for the property because the property's lot size (7,430 square feet) and lot width (56 feet) exceeds minimum Code requirements. Denying the encroachment will not deprive the property owner from use and enjoyment of his property because there are alternative locations on the property for this addition.
- Denial of the administrative adjustment results in an 82% second-to-first floor ratio. Since the Residential Design Guidelines suggests an 80% maximum, a minor design review is now required. Although not noticed, the adjoining property owners are aware of the project and will receive notice of the Zoning Administrator's decision by copy of this letter.
- The proposed second-floor satisfies the intent of the Residential Design Guidelines. The second-floor left side setback, at five feet, is consistent and compatible with the side setbacks of other two-story residences in the immediate vicinity. Staff has included a condition requiring installation of siding material on all sides of the second story, as well as on the garage and the one-story addition at the right side of the residence, to match the siding material and color on the front elevation to minimize the building mass and provide additional interest.
- Minor modifications are requested to allow the garage to encroach one foot, and to allow the second-floor addition (including balcony) to encroach two feet, into the required 20-foot front setback. The majority of the garage and second-floor above complies with the front setback requirement; however, because of the front property line's curvature, portions of the building will be at 18 feet and 19 feet. Staff supports the encroachment because of the property's curvature and a minimum 19-foot deep driveway is still provided, and because the balcony is for architectural purpose, enhancing the visual appearance of the front elevation.
- Privacy of the adjoining neighbors would not be impacted because of the locations and setbacks of the second-story windows. Specifically, second-story windows on the left elevation are bathroom windows with a small opening and non-openable windows with obscure glass; therefore, privacy impacts to the left neighbor should be minimal. New second-story windows on the right and rear elevations are at least 20 feet from the property lines; therefore, minimizing privacy impacts to the rear and right neighbors.
- The proposed addition will not affect the General Plan consistency of the lot because the existing construction is consistent with the General Plan and the number of dwelling units will not increase.

FINDINGS

- A. The information presented does not substantially comply with Section 13-29(g)(1) of the Costa Mesa Municipal Code in that special circumstances applicable to the property do not exist to justify granting of the administrative adjustment for a six-foot rear yard setback. Strict application of the zoning ordinance would not deprive the property owner of privileges enjoyed by owners of other property in the vicinity under identical zoning classification. Specifically, although the property's configuration is irregular, the lot width and size exceeds the minimum Code requirements. Furthermore, there are alternative locations on the property for addition that will not require deviations from Code. Granting the deviation would constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.
- B. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(14) in that the minor design review meets the purpose and intent of the Residential Design Guidelines, which are intended to promote design excellence in new residential construction, with consideration being given to compatibility with the established residential community. This minor design review includes site planning, preservation of overall open space, landscaping, appearance, mass and scale of structures, location of windows, varied roof forms and roof plane breaks, and any other applicable design features. Specifically, the proposed second-story side setbacks are compatible with other two-story residences in the general vicinity. Furthermore, building mass is minimized and visual interest enhanced with staff's condition requiring the installation of siding material around all sides of the second story, on the garage, and also on the first-floor addition to the right side of the residence. Privacy of the adjoining neighbors would not be impacted because of the locations and setbacks of the second-story windows.
- C. The information presented complies with Costa Mesa Municipal Code Section 13-29(g)(6) in that a 19-foot building front setback and an 18-foot second-floor balcony front setback would not be detrimental to the health, safety, and general welfare of persons residing or working within the immediate vicinity of the project or to properties and improvements within the neighborhood. Specifically, because of the front property line's curvature, only a small portion of the building will encroach into the setback area and the second-floor balcony encroachment would enhance the visual appearance of the front elevation. The proposed improvement is compatible with and enhances the architecture and design of the existing and anticipated development in the vicinity.
- D. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:
1. The proposed development and use is compatible and harmonious with uses both on-site as well as those on surrounding properties.
 2. Safety and compatibility of the design of the buildings, parking areas, landscaping, and other site features including functional aspects of the site development have been considered.

3. The proposed development is consistent with both the General Plan and the Zoning designations because the proposed construction will not increase the number of dwelling unit on the property.
 4. The proposed development satisfies the City's Residential Design Guidelines.
 5. The zoning application is for a project-specific case and does not establish a precedent for future development.
- E. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt under Section 15301, Existing Facilities, of CEQA.
- F. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

CONDITIONS OF APPROVAL

- Plng.
1. Plans submitted for plan check shall show the required ten-foot rear setback.
 2. Siding or other material shall be installed on all sides of the second story and on the garage face and portion of the front, one-story addition, to provide additional visual interest, under the direction of Planning Staff.
 3. No modification(s) of the approved building elevations including, but not limited to, changes that increase the building height, removal of building articulation, or a change of the finish material(s), shall be made during construction without prior Planning Division written approval. Failure to obtain prior Planning Division approval of the modification could result in the requirement of the applicant to (re)process the modification through a discretionary review process such as a minor design review or a variance, or in the requirement to modify the construction to reflect the approved plans.
 4. Any future second-floor windows shall be reviewed and approved by the Planning Division prior to installation. The windows shall be designed and placed to minimize direct lines-of-sight into windows on adjacent neighboring properties and to minimize visibility into abutting residential side and rear yards.
 5. Demolition permits for existing structure shall be obtained and all work and inspections completed prior to final building inspections. Applicant is notified that written notice to the Air Quality Management District may be required ten (10) days prior to demolition.
 6. All new and existing construction shall be architecturally compatible with regard to building material, style, colors, etc. with the existing structure. Plans submitted for plan check shall indicate how this will be accomplished.
 7. All construction-related activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and 8 a.m. to 6 p.m.

Saturday. Construction is prohibited on Sundays and federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.

8. The conditions of approval, Code provisions, and special district requirements of Zoning Application ZA-06-43 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
9. The applicant shall contact the Planning Division to arrange for Planning inspection of the site prior to the release of occupancy. This inspection is to confirm that the conditions of approval and Code requirements have been satisfied.
- Eng. 10. Maintain the public right-of-way in a "wet-down" condition to prevent excessive dust and remove any spillage from the public right-of-way by sweeping or sprinkling.

CODE REQUIREMENTS

The following list of federal, state, and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- PIng. 1. Approval of the zoning action is valid for one (1) year and will expire at the end of that period unless building permits are obtained and construction commences, or the applicant applies for and is granted an extension of time. A written request for an extension of time must be received by Planning staff prior to the expiration of the zoning action.
2. Existing mature trees shall be retained wherever possible. Should it be necessary to remove existing trees, the applicant shall submit a written request and justification to the Planning Division. A report from a California licensed arborist may be required as part of the justification. Replacement trees shall be of a size consistent with trees to be removed and may be required on a 1:1 basis. This requirement shall be completed under the direction of the Planning Division.
3. Street address shall be displayed on the fascia adjacent to the main entrance or front door in a manner visible from the public street. Numerals shall be a minimum 6" in height with not less than 1/2" stroke and shall contrast sharply with the background.
4. Development shall comply with all requirements of Chapter 5, of Title 13, of the Costa Mesa Municipal Code relating to development standards for residential projects.
5. Any new mechanical equipment such as air-conditioning equipment and duct work shall be screened from view in a manner approved by the Planning Division. All roof-mounted equipment is prohibited.
6. Any new on-site utility services shall be installed underground.
7. Installation of all new utility meters shall be performed in a manner so as to obscure the installation from view from any place on or off the property. The installation shall be in a manner acceptable to the public utility and shall be in the form of a vault, wall cabinet, or wall box under the direction

- of the Planning Division.
- Bus. 8. All contractors and subcontractors must have valid business licenses to
Lic. do business in the City of Costa Mesa. Final inspections, final
occupancy, and utility releases will not be granted until all such licenses
have been obtained.
- Bldg. 9. Comply with the requirements of the California Code of Regulations, Title
24, also known as the California Building Standards Code, as amended
by the City of Costa Mesa.
10. Plans submitted for plan check shall be engineered by a California
licensed architect and/or engineer for all pertinent structural design loads.
11. Submit a soils report to the Building & Safety Division as part of the plan
check package. One boring shall be at least 15 feet deep. Soil
recommendations shall be blueprinted on the plans.
12. Submit grading and drainage plans as part of the building plan check
package.
13. Submit an erosion control plan as part of the building plan check
package.
- Eng. 14. At the time of development submit for approval an Offsite Plan to the
Engineering Division that shows Sewer, Water, Existing Parkway
Improvements and the limits of work on the site, prepared by a
registered Civil Engineer or Architect. Construction Access approval
must be obtained prior to Building Permits being issued by the City of
Costa Mesa.
15. A construction access permit and deposit of **\$560.00** for street sweeping
will be required by the Engineering Division prior to the start of any on- or
off-site work.

SPECIAL DISTRICT REQUIREMENTS

The requirements of the following special districts are hereby forwarded to the applicant:

- Sani. 1. It is recommended that the applicant contact the Costa Mesa Sanitary
District at (949) 645-8400 for current district requirements.
- AQMD 2. Applicant shall contact the Air Quality Management District (800) 288-
7664 for potential additional conditions of development or for
additional permits required by the district.
- CDFA 3. Comply with the requirements of the California Department of Food
and Agriculture (CDFA) to determine if red imported fire ants exist on
the property prior to any soil movement or excavation. Call CDFA at
(714) 708-1910 for information.

FROM : CITY OF COSTA MESA

FAX NO. : 714 754 4856

Oct. 25 2006 11:35AM P2

CITY OF COSTA MESA
P. O. Box 1200
Costa Mesa, CA 92628-1200

FEE: \$ _____

APPLICATION FOR REVIEW, APPEAL OR REHEARING

Applicant Name Katrina Foley, City Council

Address _____

Phone _____ Representing* Suzanne & Adam Walburger

REQUEST FOR: ☒ REVIEW** ☐ APPEAL ☐ REHEARING

Decision of which review, appeal or rehearing is requested: (give number of rezoning, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) 2A-05-43

As to Administrative Adjustment for 6 ft rear setback only.

Decision by: ZA Reasons for requesting review, appeal or rehearing: _____

See email dated 10/25/06 from the Walburgers as well as attached.

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

OCT 26 2006

Date: 10-26-06 Signature: 

For office use only - do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
If review, appeal or rehearing is for person or body other than City Council/Planning Commission, date of hearing of review, appeal or rehearing:

* If you are serving as the agent for another person, please identify the person you represent and provide proof of agency.
** Review may be requested only by City Council or City Council Member

Costa Mesa/Forms1/Application for Review-Appeal-Rehearing

18

Katrina Foley, Esq.

From: The Walburger Family [walburger@sbcglobal.net]
Sent: Tuesday, October 24, 2006 9:54 PM
To: KBrand@ci.costa-mesa.ca.us
Cc: Kfoley@ci.costa-mesa.ca.us; htran@ci.costa-mesa.ca.us
Subject: Zoning Application ZA-06-43
Importance: High

Dear Ms. Brandt,

We received notification that the Administrative Adjustment for the proposed six-foot rear set-back on our Zoning Application ZA-06-43 has been denied. This came as a bit of a surprise since we were informed on October 4th that the City was planning on approving everything. We are curious to know what transpired between October 4th and October 19th that resulted in the reversal of your decision to approve our Zoning Application (ZA-06-43) in its entirety. We are thinking that the neighbors who contacted the City regarding the application had an impact on the City's decision making process. Perhaps there is something we can do to address and/or alleviate the issues of the concerned parties? We would like that opportunity.

We are considering filing an appeal as we would like the opportunity to discuss the following items with the staff and/or the Planning Commission.

1. The reason stated for the denial of the administrative adjustment, "there are alternative locations on the property for this addition", in the letter dated October 19, 2006 is **NOT** accurate and does not adequately address the special circumstance applicable to the property that justify granting of the administrative adjustment for a six-foot rear setback as cited in the variance request application submitted in January 2006 (see attachment).
 - a. An alternative location for the addition does NOT exist. Yes, the property is irregular in shape but a pool was constructed on the only other portion of the property deep enough to accommodate the addition. Permits for the pool construction were pulled in June 2006.
 - b. The special circumstance cited for the administrative adjustment for a 6-foot rear setback for the **1st floor addition** is the front property line's curvature which reduces the depth of our property by 16' as compared to our neighbors. Staff notes the front property line's curvature as it relates to the "minor modifications for 18-foot & 19-foot front setback" which they support but does not apply the same logic to the rear set-back. How can the front property line's curvature affect the front set-back but not the rear? Logically speaking, the front property line's curvature affects the total depth of the property. If it affects one, it affects the other. **Simply put, due to the front property line's curvature the property DEPTH is not sufficient for the 1st floor addition without encroaching into the required front and rear setbacks.**
2. What code does the reference regarding the retention of existing mature trees under the section CODE REQUIREMENTS, Pmg. #2, relate to? Is there a code that applies specifically to single family residence additions/remodels? I'm not aware of such a code. Surely, the owner of a single family owner-occupied residence is free to remove existing mature trees from their property as they deem necessary without submission of a written request and justification to the Planning Division. Why does this come into play for a room addition? We are aware that this is an area of concern for at least one of our neighbors as we have discussed with them our need to remove a large tree and several smaller ficus trees for the room addition as they will interfere with the foundation. This is the case regardless of the outcome of the request

for the 6-foot rear setback. We are aware of the visual aesthetics they provide and have already committed to using strategic landscaping to minimize the visual impact of the room addition and to provide additional interest. This is in addition to the siding material that will be installed on all sides of the second story, as well as on the garage and the one-story addition at the right side of the residence which will match the siding material and color on the front elevation to minimize the building mass and provide additional interest.

3. We submitted the plans with the timeframe of the Residential Remodel Improvement Program (RRIP) in mind and would like to take advantage of the benefits of the program. If we proceed with the appeal,
 - a. What are we looking at in terms of a timeline?
 - b. When would this go before the Planning Commission?
 - c. Can our participation in the RRIP be reserved/extended if this process extends past the December 31st deadline for the RRIP?

Nearly a year ago, we met to discuss this project and the necessity to encroach on the required 10-foot rear setback. During our conference, you indicated that a 6-foot rear setback should not be a problem due to the special circumstance of our property but would require that we go through the administrative adjustment process. At the same time, you mentioned that you would approve an 8-foot rear set-back at the counter. If you feel strongly that our appeal would not be successful and the "at the counter" approval of a 2-foot encroachment into the rear setback is still an option, we would be willing to consider adjusting the plans to show an 8-foot rear setback. Please advise.

As you are aware, time is of the essence in this matter as the deadline to file an appeal of this decision is at 5 p.m. on October 26, 2006. Thank you in advance for your timely response. We look forward to hearing from you.

Sincerely,

Adam & Suzanne Walburger
2010 N Capella Ct
Costa Mesa, CA 92626-3544

714-546-1344 - Home
949-689-3719 - Adam's Cell
949-929-2141 - Suzanne's Cell

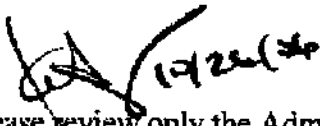
January 29, 2006

Walburger Residence Addition
Variance Request

Our goal with our addition is to add a first floor Great Room similar to those in new home construction which include a gourmet kitchen and family room. In order to have enough space to meet our needs, we need to build 4' into the required 10' set back from the rear property line.

We understand that variances are usually approved when there is a special circumstance. The position of our property at the end of a partial cul-de-sac provides that special circumstance. Because of the curvature of our street, the depth of our property is reduced by 16' compared to our neighbors. In other words, our property depth is 84' as opposed to 100' because the curvature cuts into what would be the front of our property line if we were on a linear street. Therefore, our property is not deep enough for us to build the size of room necessary to incorporate a kitchen and family room without encroaching into the required set-back.

We believe the 4' encroachment into the set-back will not interfere with our neighbors privacy as we are only requesting the variance for the 1st floor and are planning to use strategic landscaping to reduce the impact of the encroachment.



Please review only the Administrative Adjustment aspect of the Zoning Administrator Decision taking into consideration the reasons outlined in the email communication from the Walburgers dated 10/25/06 as well as the following:

1. Privacy/Proximity - Privacy won't be impacted since the administrative adjustment applies to the 1 story portion of the addition and the windows on said addition will not be higher than the fence line. The roofline and chimney will be the only part of the 1 story addition that will be visible to the adjacent neighbors. If anything, privacy will be increased, as the owners/occupants will be enjoying that part of their property from inside as opposed to outside in the backyard. Approving the Administrative Adjustment will not make the home a "lot-line to lot-line" home as there will still be an adequate setback. Further, if denied, the single story addition will still be built in the back yard it will just be less spacious and accommodating for the Walburger family and cause a land strip "dead zone" in their back yard for the width of the addition.
2. Precedent - While I agree with the general perception that Mesa Verde is a neighborhood of spacious yards and homes which should be preserved, but this particular lot is unique given the curvature of the street that creates a lot that is different in shape and less usable than others on the street or in the neighborhood. Approving the Administrative Adjustment will not set a precedent for other properties as the specific and unique circumstance of the curvature of the front property line and the resultant loss of 16' of depth to the lot is only applicable to this lot and therefore provides justification for granting the administrative adjustment for a six-foot rear setback. Although North Mesa Verde is built on a zero lot line model, approving this Administrative Adjustment will not cause this area of Mesa Verde to become a neighborhood full of "zero lot line houses."
3. Noise - Some of the residents complained about potential increase in noise that may result from building the single story home. If anything, noise level will decrease as a result of the addition as the owners/occupants will be enjoying that portion of their property from inside as opposed to being outside in the backyard where noise would be greater and would carry to the adjacent property owners. Windows on the 1 story addition will be below the fence line.
4. Property Value - Although not a land use issue for the Planning Commission, in general, residential improvements approved by the City of Costa Mesa have a positive effect on property value. The City and the property owner have outlined a plan to ensure architectural purpose, enhance visual appearance, provide additional interest, and minimize building mass with strategic landscaping and installation of siding materials. The Walburgers want to enjoy a beautiful home as they plan to live in this home for many years as they raise their 3 children.
5. Compromise by the Walburgers: Only after the Zoning Administrator denied the Administrative Adjustment did the Walburgers become aware of the concerns by the adjacent neighbors. If the Planning Commission is inclined to uphold the Zoning Administrator decision, the Walburgers are willing to compromise their plans in order to alleviate some of these concerns. Had they known before the decision, they could have addressed it without the need for formal review by the Planning Commission. To that end, they would be open to adjusting their plans to accommodate an 8-foot setback, i.e., only 2-foot encroachment. When meeting with the Planning Department initially, they were informed that this was possible without the need for an Administrative Adjustment process.

Richard and Venita Johnson
2009 Balearic Drive
Costa Mesa CA 92626

Mr. Mike Robinson
Planning Director
City of Costa Mesa
77 Fair Drive
Costa Mesa CA 92626

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

OCT 18 2006

Re: ZA-06-43

Dear Mr. Robinson:

The purpose of this correspondence is to document our opposition to the request by the residents of 2010 North Capella Ct. for an administrative adjustment to allow a 6-foot rear setback for a room addition.

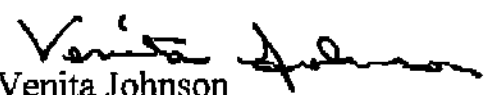
It is our belief that this project will negatively impact our property as the neighbors directly behind this property. We believe that it will be too close to our backyard and take away the privacy that we now have.

One of the reasons that we have continued to live in Mesa Verde is the large residential lots with ample space between homes. It gives the resident space between neighbors. Allowing homes to be constructed so close to the property line will give Costa Mesa the look of south Orange County communities and eliminate the homeowner's privacy.

We feel that this type of project is not in the best interest of our neighborhood and request that you reconsider your recommendation of the project as presented. If we make an exception to the rule once, then we have set a precedent and encourage homeowner's to build bigger, but not better homes for the surrounding property owners.

Thank you for your consideration of this matter.


Richard Johnson


Venita Johnson

October 17, 2006

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

OCT 18 2006

Mr. Mike Robinson
Costa Mesa Zoning Administrator
City of Costa Mesa
P. O. Box 1200
Costa Mesa, California 92626-1200

Dear Mr. Robinson,

I am writing this letter in response to the Official City Notice regarding Zoning Application ZA-06-43 requesting an administrative adjustment for the home renovation of Adam and Suzanne Walburger of 2010 N. Capella Court.

My husband and I are neighbors of the Walburger's and we are very concerned that the requested adjustment will have a negative impact on our home and our neighborhood. We strongly request that you deny the Walburger's application for an administrative adjustment.

My husband and I have lived in Costa Mesa for twenty years now, the first 11 years in an apartment on 16th Street and Westminster. During that entire time, we planned on living in Mesa Verde; largely because of the area's oversized lots and modestly sized homes. We saved our money until we could afford a home of our own home in the neighborhood and have loved every minute of living here since we moved in.

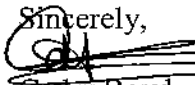
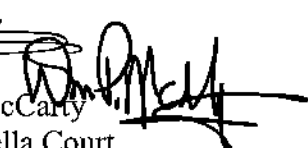
We don't feel a giant, lot-line-to-lot-line home is appropriate for the neighborhood. We believe that the zoning rules are in place for a reason and are correct for maintaining the look and feel of the Costa Mesa. We also that having one of these behemoths next to us will negative impact our property value and those of the other neighbors.

On a very personal note, allowing a 6-foot rear setback instead of the mandated 10 feet means we'll see much more of their house from our backyard. The noise level will also increase due to windows facing our backyard and living space and we will loose a lot of privacy which was so important to use when we moved into this neighborhood.

Mr. Robinson, to maintain the look and feel of the neighborhood, please deny this request for a variance to the zoning law.

Thank you for your consideration.

Sincerely,


Cathy Boyd

William P. McCarty
2012 N. Capella Court
Costa Mesa, CA 92626
(714) 424-9908

OCT 18 2006

Dear Costa Mesa Zoning Administrator,

My name is Peggy Gilkerson and I live at 2013 Balearic. I live behind 2010 N. Capella Court which is the house listed on a notice I received from the City of Costa Mesa informing the surrounding neighbors that the home owners are requesting approval to extend their home past the city mandated setback of 10 feet.

I am asking that you please do not approve that their home be built any bigger than what is allowed by the city. When I moved to the neighborhood in 1963, we all enjoyed time in our backyards without having to worry about our privacy being invaded by home owners who want to fill up every possible space with their homes. If they are given permission to build 4 feet into the mandated 10 feet, that means there will be less yard and more house!

Also, I don't want to see the neighborhood start changing to those big houses. Our neighborhood is such a wonderful place to live and I would hate to see it change to the full lot line houses. If you approve one house, then it set a precedent that all home owners can follow suit.

Thank you very much,

Peggy Gilkerson

ZA-06-43
2010 N. Capella Court

Patricia Johnson
2853 Europa Drive

Neighbor is concerned that City is setting a precedent for 6-ft. rear setback and the proposed setback for subject site is too close to the property line and is intrusive to the neighbors.

10/5/06
HT

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

OCT 03 2006

October 2, 2006

Chau Minh Nguyen and Vu X. Le
2012 Calvert Ave
Costa Mesa, CA 92626

City of Costa Mesa
PO Box 1200
Costa Mesa, CA 92628-1200

Re: 139-402-31 of zoning application ZA-06-43

To Whom It May Concern:

We are writing to oppose the 1 story addition of the Walburger because it calls for a 6-foot rear setback instead of a 10-foot rear set back and also a 1-foot encroachment into the required 20-foot front setback.

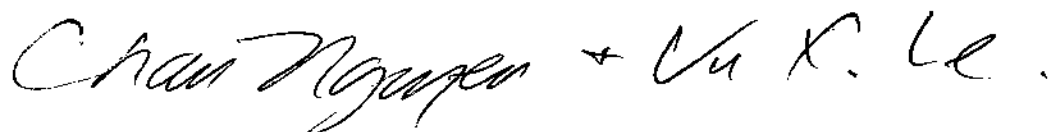
We bought into this neighborhood to raise a family because of wide streets with houses set back from the street that gave it a cozy expansive feel. Mesa Verde is a picket fences neighborhood where children ride their bikes and their scooters in the streets; where people walk their dogs in the evening and greet their neighbors as they pass. It is also where we cherish our lawns and plant our flower beds and lay out in our backyards.

There has been a trend in California toward super-sizing homes to create McMansions that sit on a lot of a previously small home. One which towers over its neighbor and dwarfs the other homes in the neighborhood. Such structures are trends which can ruin the feel of a neighborhood.

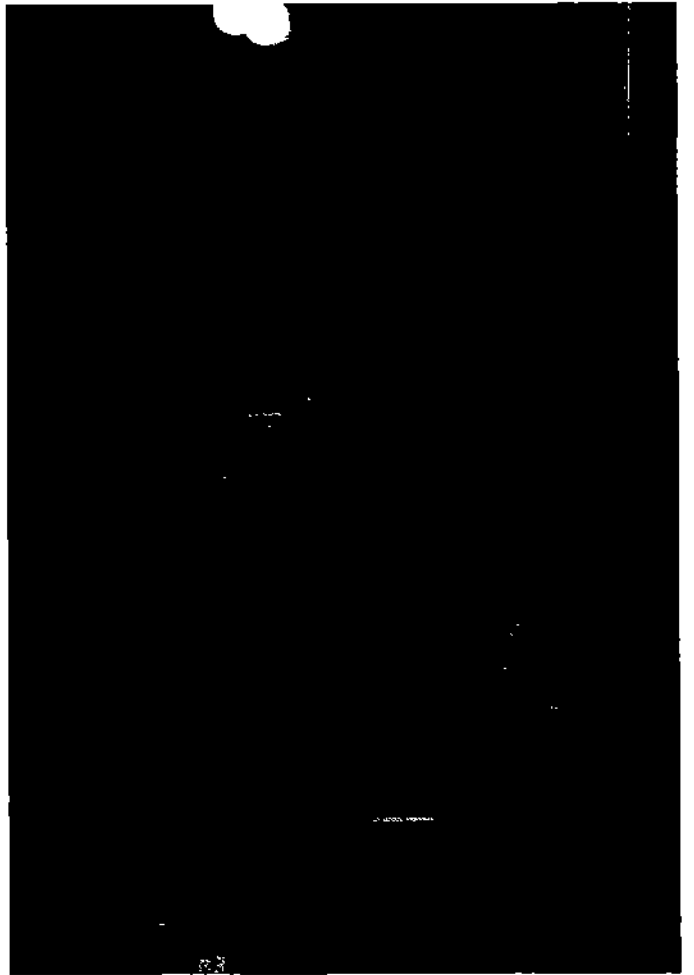
We have a modest 1-story home and feel an addition that allows encroachment into the front or rear setback will devalue our small home, create a loss of privacy, increase noise, and ruin the feel of our little neighborhood.

Thank you for your consideration.

Sincerely,



Chau M. Nguyen and Vu X. Le



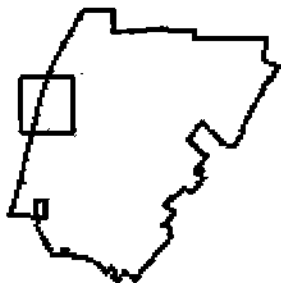
2010 N. Capella Ct

10/3/04

City of Costa Mesa

CITY OF COSTA MESA - [Created: 9/27/2006 10:12:58 AM] [Scale: 98.31] [Page: 8.5 x 11 / Portrait]

Overview Map



Legend

Address
Large

Address
Points

Roads

Collector

Freeway

(cont)

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Major

Newport Blvd

//

Primary

//

(cont)

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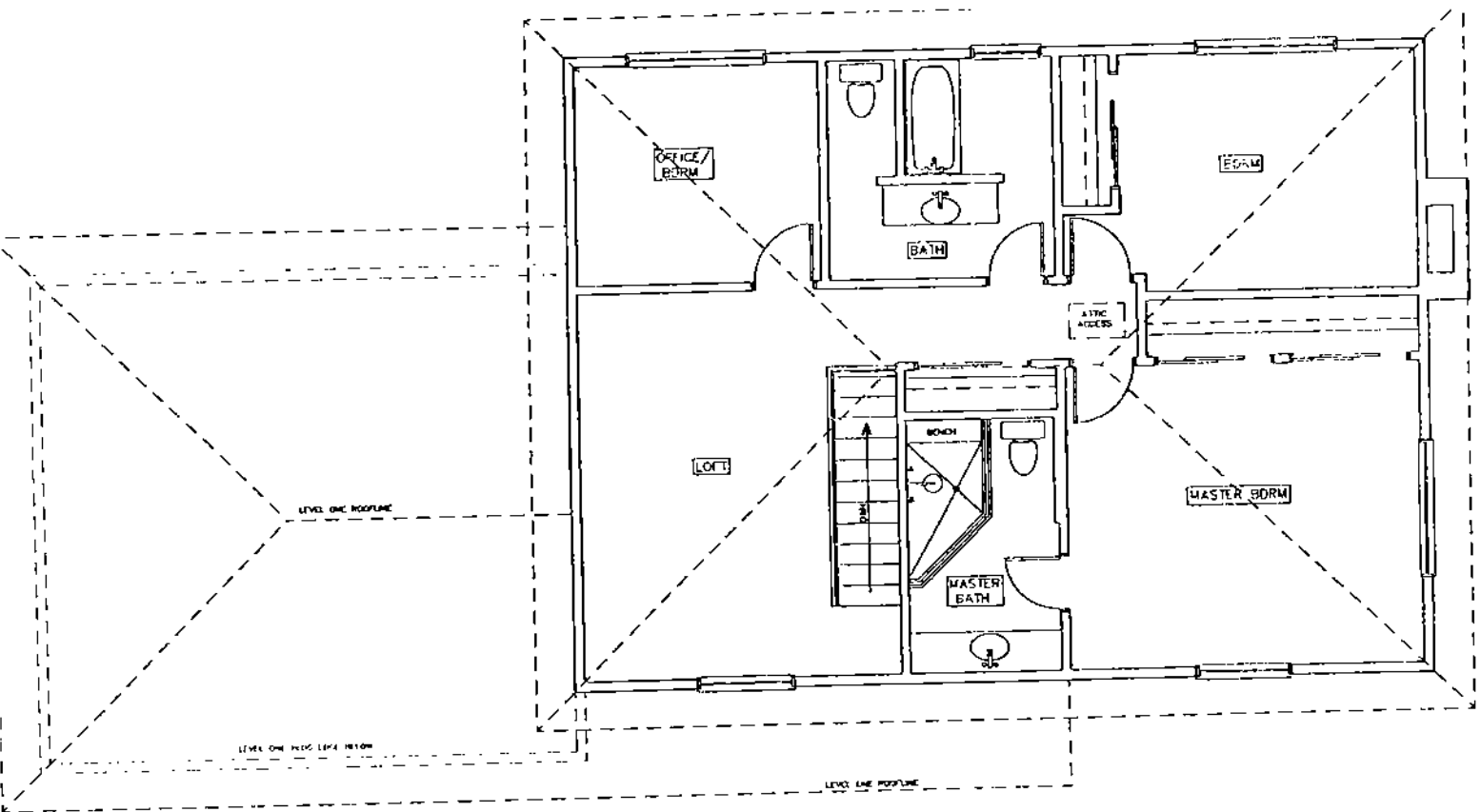
Freeway

//

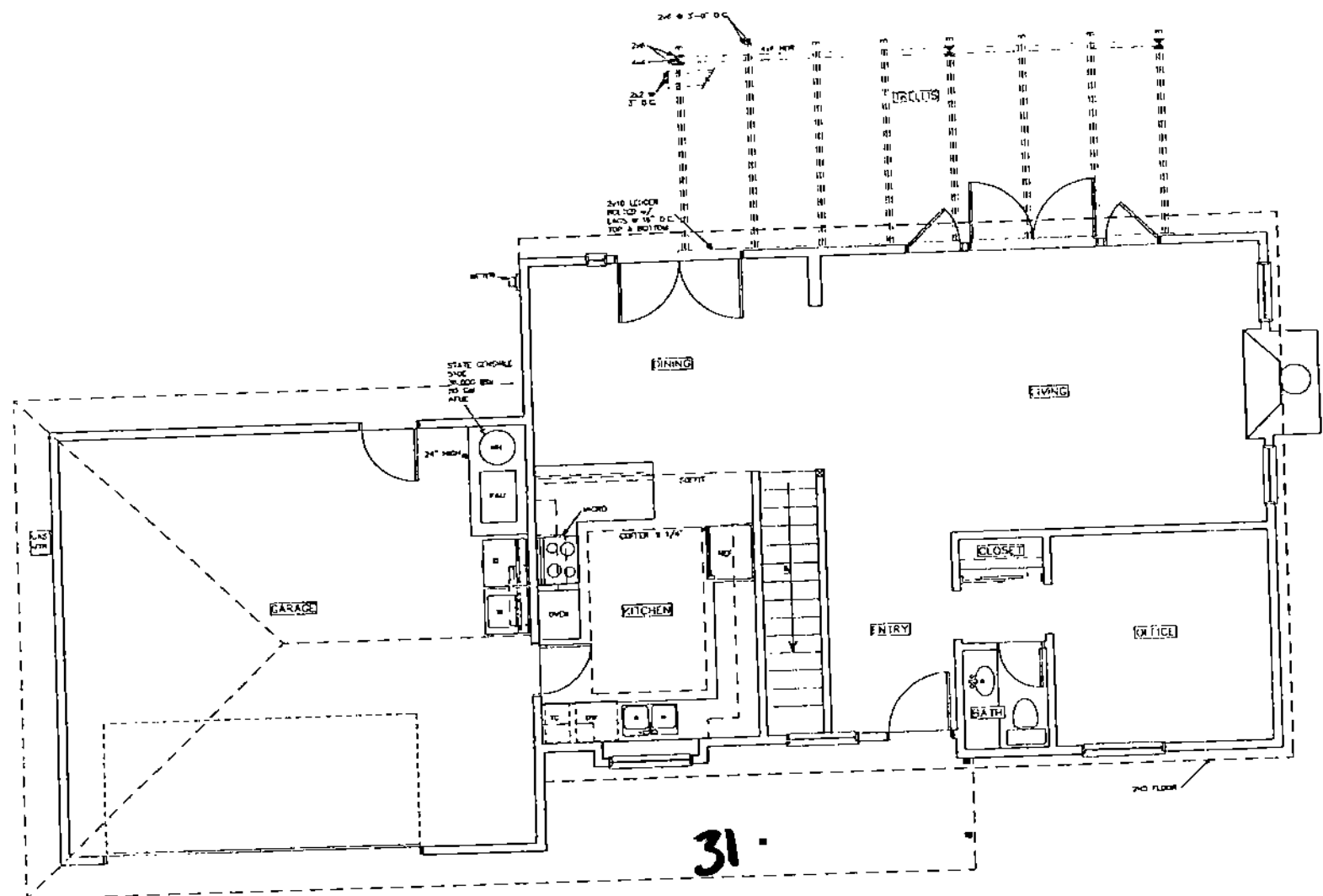
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Map Display



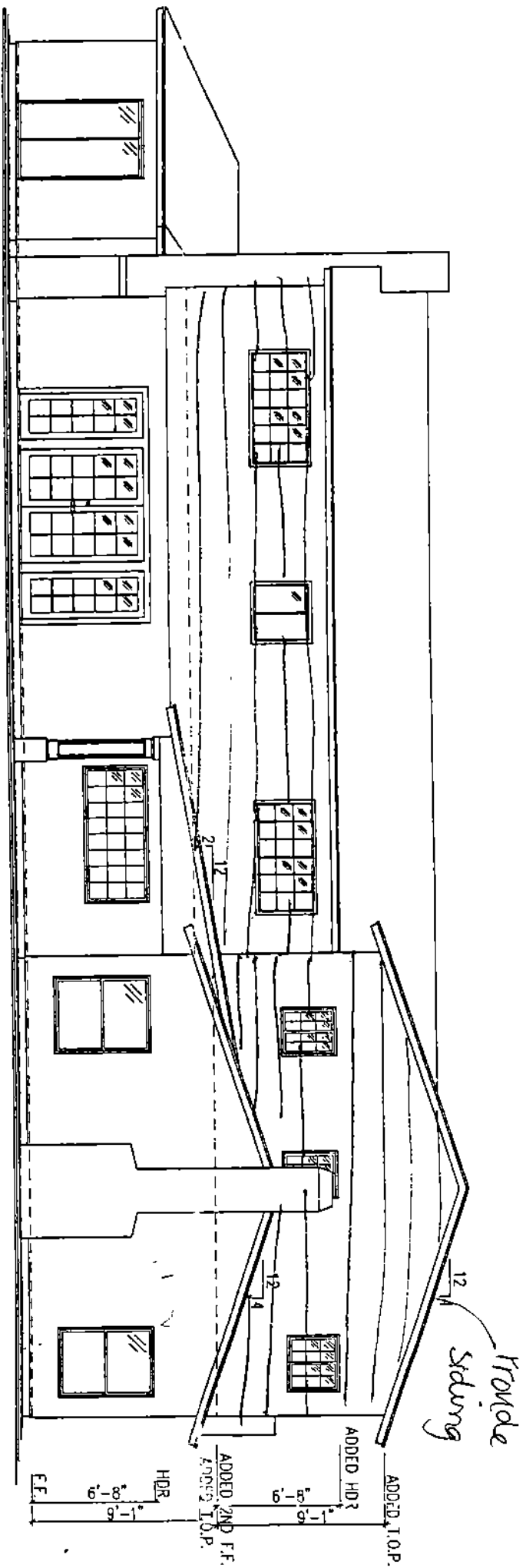


AS-BUILT FLOOR PLAN (2nd FLR)



AS-BUILT FLOOR PLAN (1st FLR)

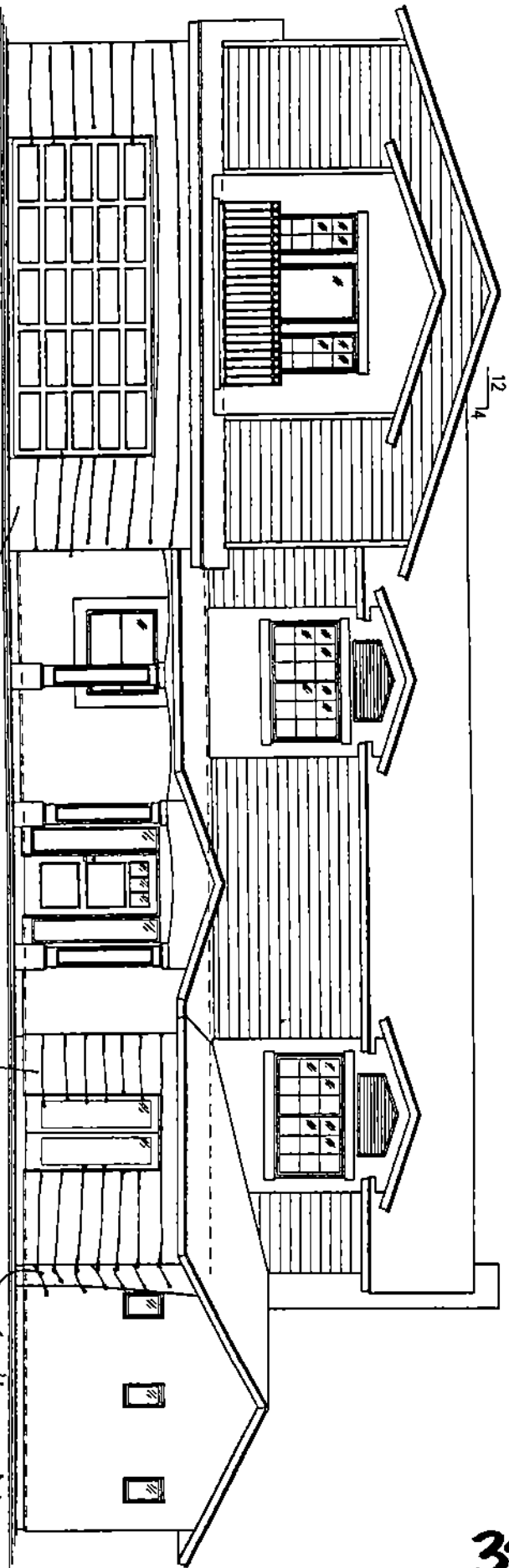
SCALE: 1/8" = 1'-0"



PROPOSED REAR EXT. ELEV

SCALE: 1/8" = 1'-0"

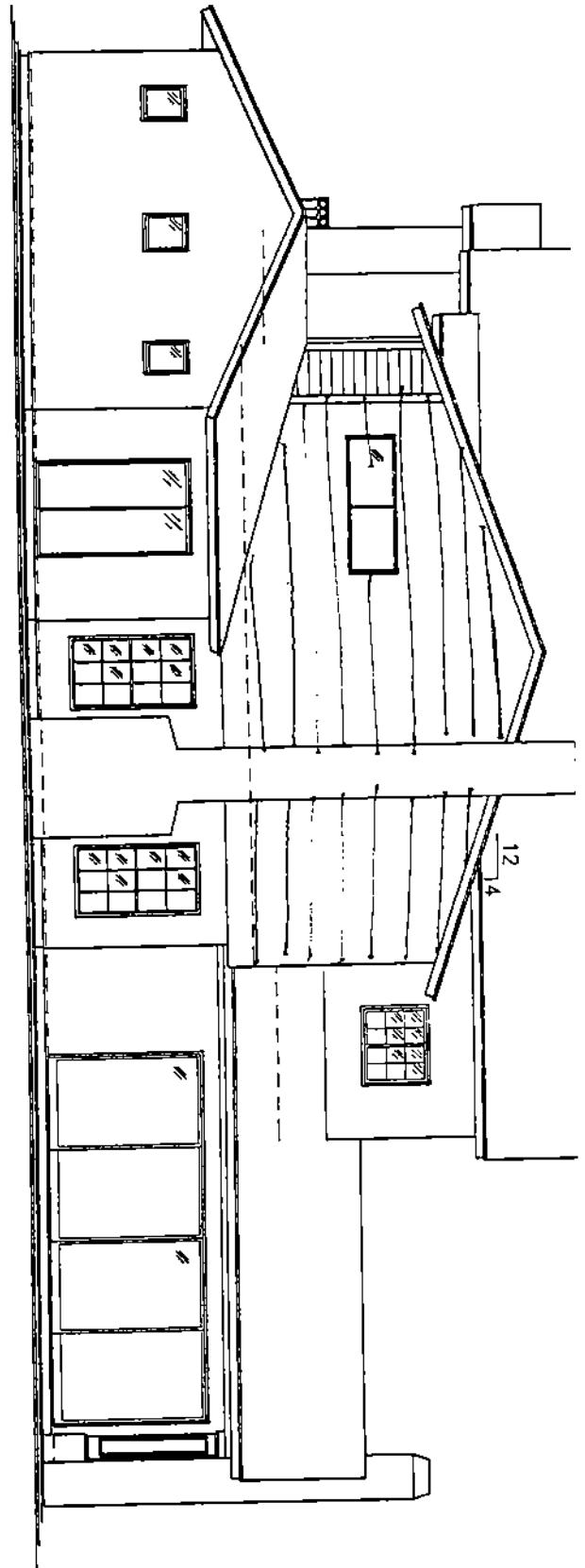
34



PROPOSED FRONT EXT. ELEV

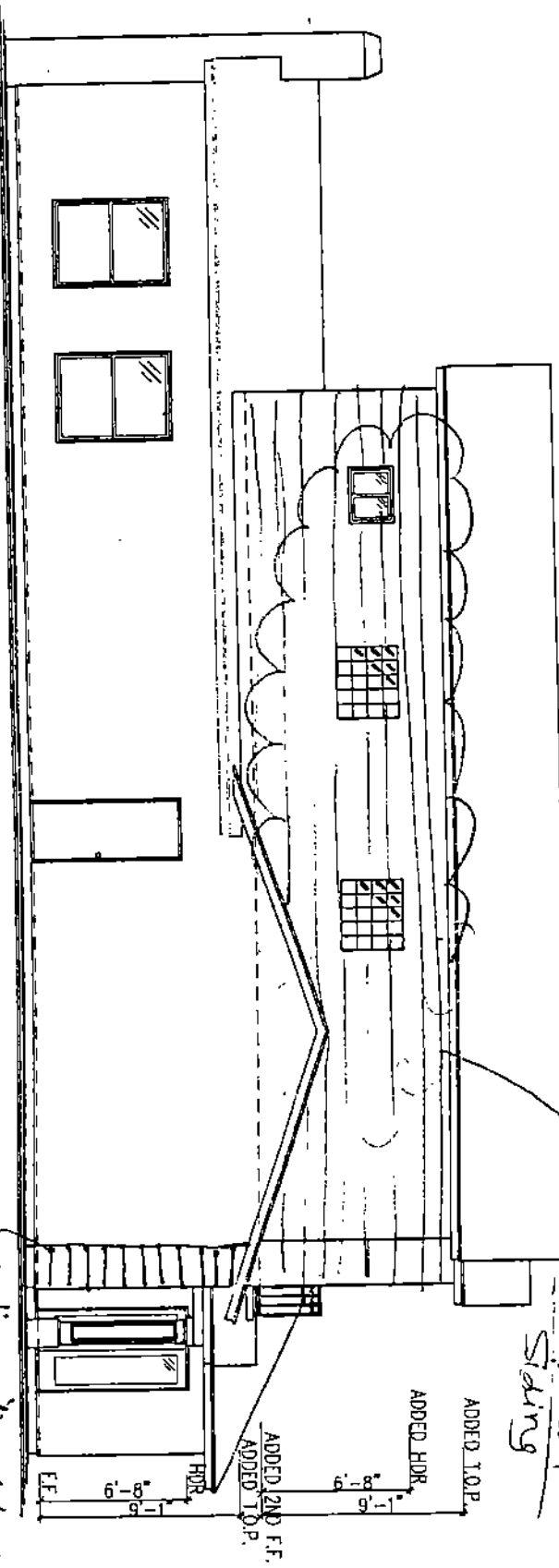
Provide Siding on
1st fl.

Continue siding @ least
SCALE: 1/8" = 1'-0" 1'-foot



PROPOSED RIGHT-SIDE EXT. ELEV.

SCALE: 1/8" = 1'-0"

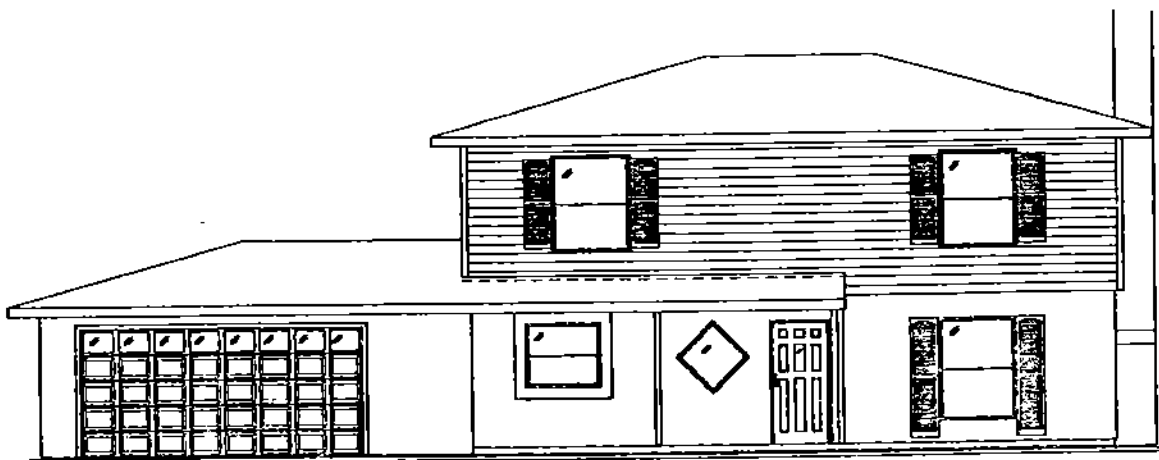


PROPOSED LEFT-SIDE EXT. ELEV.

SCALE: 1/8" = 1'-0"

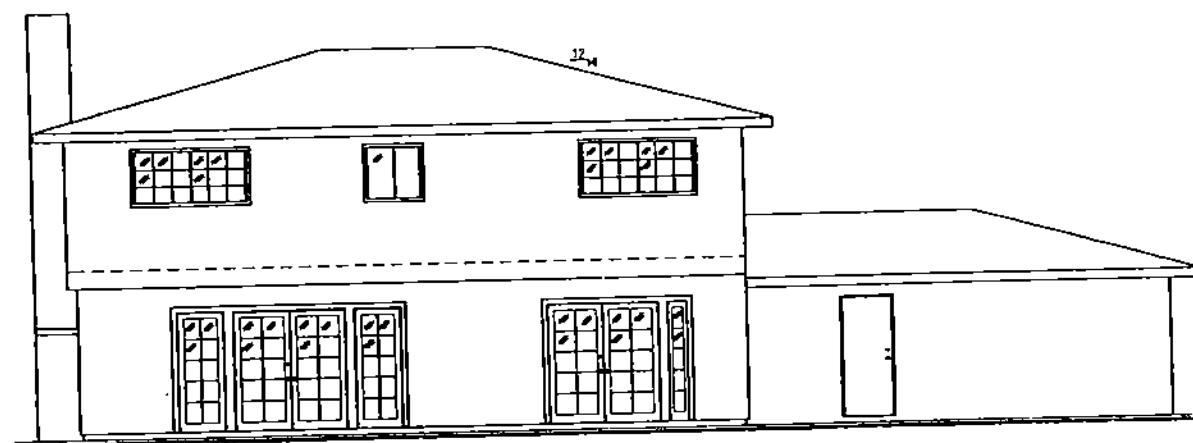
1'-0" view
interest
siding

continue siding at least
1'-0" depth



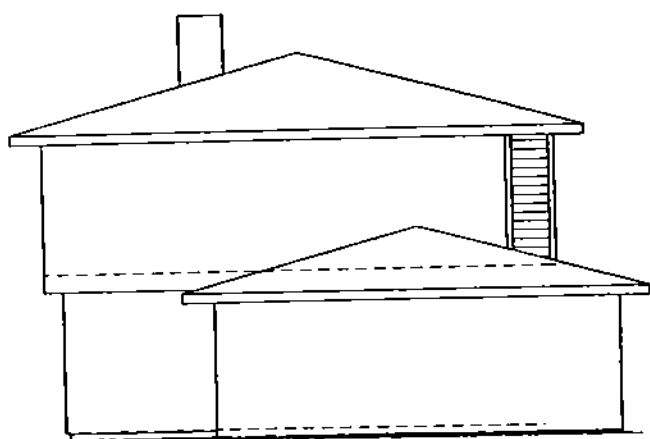
AS-BUILT FRONT EXT. ELEV

SCALE: 3/32" = 1'-0"



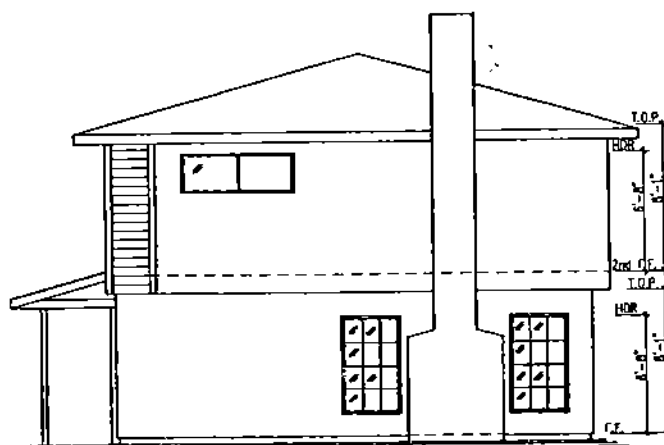
AS-BUILT REAR EXT. ELEV

SCALE: 3/32" = 1'-0"



AS-BUILT LEFT-SIDE EXT. ELEV

SCALE: 3/32" = 1'-0"



AS-BUILT RIGHT-SIDE EXT. ELEV.

SCALE: 3/32" = 1'-0"